

AGRICULTURAL PRESERVATION RESTRICTION (APR)  
APR PROGRAM GUIDE

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**UPDATES:**

*This guide summarizes the APR program and is subject to change.*

*APR program updates are available at [www.mass.gov/apr](http://www.mass.gov/apr).*

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*If you have questions or comments please contact MDAR staff at [www.mass.gov/apr](http://www.mass.gov/apr).*

**COVER PHOTO:**

*Massachusetts Farms in the Pioneer Valley*

## Dear Friend of Massachusetts Farmland,

Welcome to our first ***APR Program Guide***, a handbook for farmland preservation in Massachusetts. From application to stewardship, this guide describes many facets of farmland conservation under the APR program.

Our Department of Agricultural Resources is dedicated to protecting the public trust to provide support for agriculture and highlight its valuable contributions to our economy, our landscape, and our communities. In my travels across the Commonwealth I have visited many farms and I continue to be impressed that we have protected so many precious farms that contribute to the communities we call home.

I want to thank everyone dedicated to preserving farmland in Massachusetts and give a special thanks to all our farmers. Putting your farmland into the APR program is an important decision that takes careful thought and planning, and while it can be a long process, the end result – the permanent protection of agricultural land for farmers and Massachusetts communities – is well worth it.

I hope this guide will help you make an important decision about how to protect your own farmland.



**John Lebeaux**

*Commissioner*

MASSACHUSETTS DEPARTMENT OF  
AGRICULTURAL RESOURCES (MDAR)



## APR Purpose, Value, and Restriction

If you own a farm in Massachusetts, the value of your land for development is probably much higher than it is for agricultural purposes. The goal of an APR is to pay you the difference between the two and to let you or your heirs or other farmers continue to farm it. Placing an APR on your farm has significant advantages, comes with some important restrictions, and can take two or more years to complete. This guide will give you the information you need to understand the APR program and to help you determine if it is right for you.

If you protect your farm through the APR program, your farm will continue to be preserved for agriculture in the future, along with hundreds of other farms across the state in the APR program. While it is a significant process that takes careful thought and planning, it is one that can benefit you, your family and future farmers in years to come.



### ASSISTANCE

MDAR staff and land trust staff are available and happy to assist you throughout the APR application and approval process. You may find MDAR contact information at [www.mass.gov/apr](http://www.mass.gov/apr) and a list of local land trusts at [www.findalandtrust.org/states/massachusetts25](http://www.findalandtrust.org/states/massachusetts25) or [www.massland.org/land-trusts/list](http://www.massland.org/land-trusts/list).

## Abbreviations

### MDAR

Massachusetts Department  
of Agricultural Resources  
[www.mass.gov/agr](http://www.mass.gov/agr)

### ALPC

Massachusetts Agricultural  
Lands Preservation Committee  
[www.mass.gov/apr](http://www.mass.gov/apr)

### NRCS

U.S. Department of  
Agriculture, Natural Resources  
Conservation Service



## Guide Content

Information for this guide comes from APR program regulations, procedures and documents. It aims to be a comprehensive summary and consistent with the APR application process, stewardship planning, change of ownership guidelines, and resources for the APR program.

The content describes the rights and responsibilities of current and future APR landowners, and the responsibilities of MDAR for protected agricultural land.

## INTRODUCTION HISTORY

### Preserving the Future of Farmland

In 1977, due to concerns about the loss of agricultural land to development and the need for land use planning, the legislature created the Agricultural Preservation Restriction (APR) program through *An Act Providing for the Acquisition of Agricultural Preservation Restrictions by the Commonwealth*. It was the first state program of its kind in the nation.

The APR program preserves and protects agricultural soils from use for non-agricultural purposes or any activity detrimental to agriculture. The voluntary program helps pay farmers the difference between the fair market value and the fair market agricultural land value of their land, in exchange for a permanent deed restriction which prevents any use of the property that will have a negative impact on its agricultural use.

In 1980 the Department of Food and Agriculture, under Commissioner Frederic Winthrop, completed the first APR, an 18-acre parcel of farmland in Salisbury Plains. Today it's part of Bartlett Farm, a 10th generation family-owned vegetable and produce farm that has been operating since 1657 and is one of the oldest farms in the country. Since that first APR, the Department of Agricultural Resources has protected more than 930 farms and more than 73,000 acres.

Acts, 1977. — Chap. 780. 969

**Chap. 780. AN ACT PROVIDING FOR THE ACQUISITION OF AGRICULTURAL PRESERVATION RESTRICTIONS BY THE COMMONWEALTH.**

*Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for the protection and preservation of agricultural lands, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.*

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 132A of the General Laws is hereby amended by inserting after section 11 the following four sections:-

**Section 11A.** The secretary of environmental affairs shall establish a program to assist the commonwealth in the acquisition of agricultural preservation restrictions as defined in section

The Department has developed a productive partnership with the USDA Natural Resources Conservation Service (NRCS) to protect farmland, created an active stewardship program, and has been at the forefront to ensure that this land remains affordable and accessible to farmers and transfers at fair market agricultural value.

While the APR program is just over 40 years old, these are only the early years for a program which protects land for posterity. For the APR program, it's a time for reflection on past accomplishments and a time to look forward to preserving many more acres of farms.

Past MDAR Commissioner Winthrop at the Wilkie APR in Lakeville.



MDAR Commissioner Lebeaux, Massachusetts farmers, and state and federal officials participate in the speaking program atop Mount Sugarloaf to celebrate the 40th anniversary of the legislation that created the APR program.

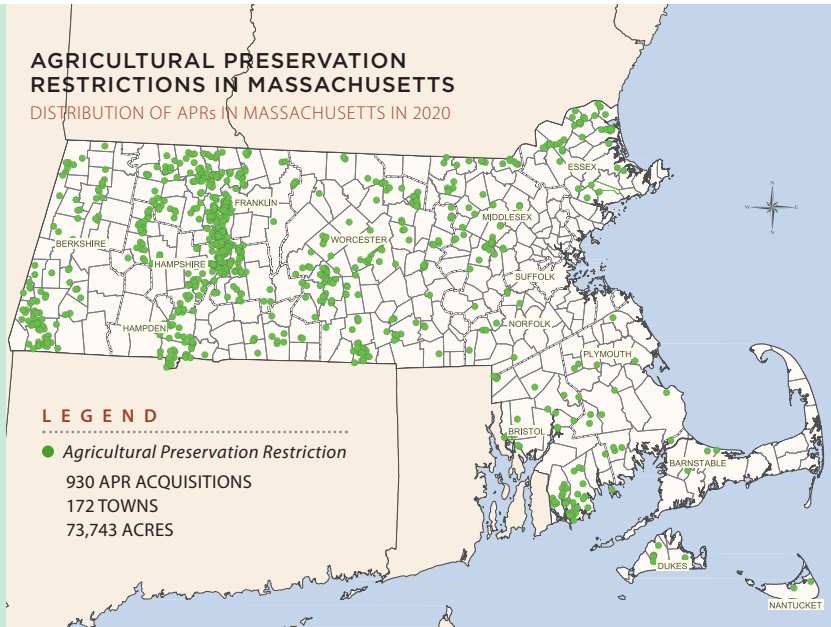
## INTRODUCTION

# APR BENEFITS

The APR program protects agricultural land for farming and from development. It's a voluntary program for landowners faced with a decision about the future use of their farmland. The program helps to pay farmland owners the difference between the fair market value and the fair market agricultural land value of their farms in exchange for a permanent deed restriction that preserves the farmland.

The landowner keeps ownership of the land and can pass it down to future generations or sell it to another farmer.

More than 930 farms and  
73,000 acres preserved



The purpose of the Agricultural Preservation Restriction program is to protect farmland. Related benefits are:

- Strengthening the local farm community by keeping farmland in productive agricultural use and in the hands of farmers
- Offering estate planning and retirement options such as the continued operation of the farm (for example land can be transferred to one child with cash disbursements to other children), or the owner can retire now or in the future without having to sell the farm for development
- Providing experienced and beginning farmers with the opportunity to purchase farmland near or at its fair market agricultural value
- Stabilizing farmland values in regions with escalating land values to guarantee long-term availability of farmland for farmers who want to rent or purchase land to farm
- Providing farmers access to the equity in their land so they can keep their land instead of having to sell for development, making it possible to reinvest in their farms with the purchase of more land, equipment, buildings, or the retirement of farm debt, or to provide for other family needs
- Offering a resource for farmers to transfer ownership to their children by reducing the value of restricted farmland to its fair market agricultural value, which may greatly reduce inheritance taxes and the need for second generation farmers to sell the farmland to pay taxes
- Contributing to food security by making fresh, healthy, local agricultural products available to people in Massachusetts
- Responding to climate change with farmland conservation practices that contribute to soil health and the reduction of greenhouse emissions
- Securing a better future for all Massachusetts residents by contributing to the scenic beauty of the state, tourism, agricultural economy, local food availability, wildlife habitat, quality of life, recreational opportunities, and the preservation of natural resources that might otherwise be lost to development



## APR PROCESS OVERVIEW

## Summary

- *Pre-application planning*
- *See sample APR documents*
- *Fill out application*
- *Farm visits*
- *Application review*
- *ALPC meeting for vote of interest*
- *Review documents*
- *Start appraisal and title process*
- *Offer made*
- *Offer accepted*
- *MDAR application to NRCS*
- *NRCS results*
- *Purchase and sale agreement*
- *Results of municipal or other funding if applicable*
- *ALPC meeting for final vote*
- *Survey work: assignment, review, approval*
- *Receive APR documents*
- *Review BDR*
- *Get appraisal update*
- *NRCS to approve documents*
- *Sign and record documents*
- *Receive check*

If you would like to protect your farmland, read this guide to learn about APR eligibility, the application process, the financials, and the APR program requirements. APR staff and land trust staff are happy to assist you. The APR process may take two or three years, so contact them when you first consider farmland protection.

## Checklist

Here's what you will need to do:

- ☐ Learn about the APR program. Find out if your farm is eligible for the program by reviewing this guide, reading online resources at [www.mass.gov/apr](http://www.mass.gov/apr), and talking with APR staff (contact information at [www.mass.gov/apr](http://www.mass.gov/apr)) or contact your local land trust. An asterisk (\*) notes steps where a land trust might be particularly helpful.
- ☐ Call MDAR to arrange a meeting with an APR field representative to discuss the APR process, the benefits from the sale of an APR, the support from a land trust, and the allowed farmland uses when you have an APR. It's best to have all family decision-makers present.
- ☐ \*Work with an attorney, family tax or business advisor, or other advisors to start planning your funding structure and to review documents.
- ☐ Visit your local NRCS field office or go online to the Web Soil Survey to get an APR Soils Packet.
- ☐ \*Complete and send in an APR application before the due date provided by MDAR.
- ☐ \*Meet with your APR field representative at your property to discuss the application, discuss your farmland and farming operations, and look at the fields.
- ☐ Your APR field representative will let you know the outcome of MDAR's review and recommendation to the Agricultural Lands Preservation Committee (ALPC). The ALPC will take either a vote of interest to move forward with an appraisal, or a vote of no interest.
- ☐ \*After you receive an appraisal copy and offer, review it with MDAR staff. Within 30 days, review it with family members, heirs, accountant, attorney, etc. and accept or decline MDAR's offer.
- ☐ If you accept the offer, notify MDAR of your decision.
- ☐ \*Consider applying to the CLTC program if doing a partial landowner donation and start the approval process early to get on the list.
- ☐ MDAR may submit your application to its federal funding partner, the USDA Natural Resources Conservation Service (NRCS), for approval. If approved by NRCS, MDAR may bring the project forward to the ALPC for a final vote. A final vote signals the intention of the state to move forward with the APR, subject to funding. If it is not approved by NRCS, another funding partner could be explored.
- ☐ \*MDAR contracts with an independent surveyor. You review the 50-percent-cost-share-agreement for the survey before signing. You meet with the surveyor and MDAR field representative, review the survey draft, and review it with your attorney.
- ☐ MDAR schedules a site visit for a baseline documentation report (BDR) that describes the condition of the property. Review and sign this initial BDR, and a final BDR prior to closing.
- ☒ \*Receive MDAR's packet of landowner documents for your review, your attorney's review and your signature. Complete and sign the APR documents.
- ☐ MDAR will arrange for a closing, the APR agreement is recorded, and you receive payment.
- ☐ After the APR process is complete, MDAR stewardship staff communicate with you about ongoing monitoring of the farmland and assistance available through the APR program and other MDAR programs.

NOTE: Depending on your situation, these steps may occur in a different order than shown.

## INTRODUCTION

# CASE STUDY



Jim Gipe/Pivot Media

## Kitchen Garden Farm

SUNDERLAND, WHATELY

Caroline Pam and Tim Wilcox started Kitchen Garden Farm in 2006 on one acre of land. This family farm has since expanded to grow certified organic vegetables on 50 acres in Sunderland and Whately. The farm grows more than 100 varieties of vegetables on the farm including heirloom tomatoes, specialty greens and roots, fresh herbs, and a wide variety of sweet and hot peppers. The farm is well known for their sriracha and salsas, sold at retailers across the country and available to sample at their popular annual Chilifest event in September, hosted at Mike's Maze at Warner Farm, also an APR farm.

Caroline Pam and Tim Wilcox are quick to admit they wouldn't be where they are without the APR program. They welcomed visitors to their farm as part of the APR program 40th anniversary celebration at which time Caroline wrote the following about the APR program as a contributing writer to the Daily Hampshire Gazette:

"Over the past 40 years, the APR program has preserved around 900 farms and over 70,000 acres in Massachusetts. We feel very fortunate to own a few of them. But there are thousands more acres of prime farmland still at risk of development, and the APR program is one of the best ways to prevent their permanent loss. Any loss of this precious resource is truly heartbreaking, especially when there are many farmers who are struggling to secure good land."

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SOURCE: MDAR APR Prime Newsletter

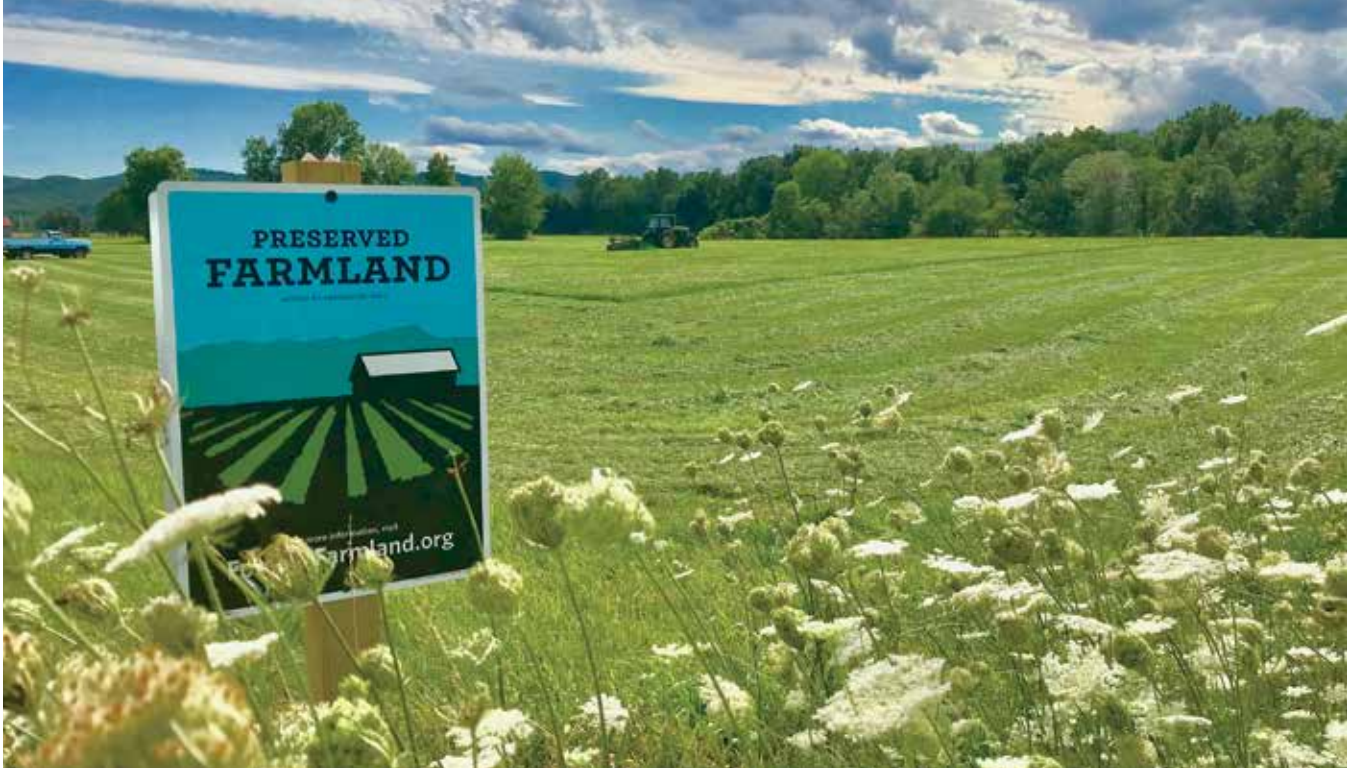


Northeast Solar



## APPLICATION

# APR PROGRAM ELIGIBILITY



Land must be actively farmed and meet the following requirements to be eligible for the APR program.

### PRIMARY REQUIREMENTS:

- Be at least five acres in size
- Have been devoted to agriculture for the two immediately preceding tax years
- Have produced at least \$500 in gross sales per year for the first five acres plus \$5 for each additional acre

### OTHER CRITERIA CONSIDERED:

- Suitability and productivity of land for agricultural use based on soil classification, physical land features, and location near other farms
- The degree of threat to the continuation of agriculture on the land due to circumstances such as owner's death, retirement, finances, development pressure, health issues, or rental agreement concerns
- The size or composition of the farm that determines economic viability for agriculture, and the likelihood that it will remain in agricultural use in the future

See evaluation criteria on page 15 which must be met to receive funding.

APR program eligibility, requirements and processes may change. Updated information is posted at [www.mass.gov/apr](http://www.mass.gov/apr).

## APPLICATION

# APR PROGRAM ELIGIBILITY

## Getting Started

As early as possible in your thinking and planning process, contact MDAR staff for guidance.

### INITIAL PHONE CALL TO MDAR

- Check eligibility

### FIRST VISIT WITH FIELD REPRESENTATIVE

- Review the APR program
- Discuss options with all decision-makers present if possible
- Review the application:  
*What do I need to do by when*
- Walk the property and look at APR potential
- Plan the APR Boundary Area
- If a land trust partner is involved they may attend as well

### MATERIALS

- Sample draft of APR agreement
- Score sheet
- Include "Soils map packet"

### FOLLOW UP

- Decision-makers talk to co-owner(s), heirs, attorney, accountant; and fill out the application



## Partners Involved in the APR Program

In addition to the landowner(s) and APR program staff, other partners may include the Agricultural Lands Preservation Committee (ALPC), the USDA Natural Resources Conservation Service (NRCS), the local municipality, and a local land trust.

The ALPC is responsible for approving APR applications at meetings which are open to the public. It has 12 members who represent:

- |  |   |
|--|---|
| ① Massachusetts Department of Agricultural Resources     | ⑥ Farmer  |
| ② Board of Food and Agriculture                          | ⑦ Farmer  |
| ③ Department of Housing and Community Development        | ⑧ Farmer  |
| ④ Executive Office of Energy and Environmental Affairs   | ⑨ Farmer  |
| ⑤ UMass Center for Agriculture, Food and the Environment | ⑩ Land Trust  |
|  | ⑪ Farm Advocacy Organization                          |
|  | ⑫ Natural Resources Conservation Service (Non-Voting) |

The names of current committee members are listed at [www.mass.gov/apr](http://www.mass.gov/apr).

## State Regulations

Eligibility for the APR program is based on a state statute which requires APRs to be land actively devoted to agricultural or horticultural uses as defined in sections 1 to 5 of Mass General Law Chapter 61A.

## Land Trusts

Your local land trust may be a helpful initial partner in determining whether an APR or another conservation tool is the best fit for your farm and family. Reach out to them early in the process as well. They may provide staff or advocates who can help throughout the process. For a list of local land trusts in your community visit [www.findalandtrust.org/states/massachusetts25](http://www.findalandtrust.org/states/massachusetts25) or [www.massland.org/land-trusts/list](http://www.massland.org/land-trusts/list). (SEE PAGE 31.)



## APPLICATION

# THE FINANCIALS

The APR program allows the landowner to access the equity in the land without having to sell the land. A variety of funding sources are available for APRs and farmland purchase, including state, federal (NRCS), municipal, land trusts, and a landowner donation. Call MDAR to discuss your goals and understand options available to you. MDAR staff can discuss this with you by phone and, if appropriate, staff can stop by for a more in-depth discussion.

The APR program works with the federal government through the USDA Natural Resources Conservation Service (NRCS) to access federal funds to match state funds. Because of this partnership, the state is able to protect twice as many acres as it could on its own. If funding is available from partners other than NRCS, it may be used in place of NRCS funding. Municipal funds can include Community Preservation Act (CPA), municipal, or other community funds. Land trusts can also provide funding and other assistance. Each municipality and land trust may help in different ways.

The value of an APR is determined by two appraised values 1) fair market value (FMV) and 2) fair market agricultural land value (FMALV). The FMV is based on the highest profitable land use, which is usually for development. The FMALV is the value that agricultural land would sell for. The difference between the FMV and FMALV is the value of the APR.

MDAR helps pay the value of the APR for the right to save the farmland in perpetuity and is subject to approval by the ALPC. The APR program has a per acre cap limit of \$10,000. Depending on federal and state budgets, some eligible projects can exceed the cap and receive up to \$20,000 per acre for portions of the land.

The example below shows how an APR value is calculated and where funding for the APR value may come from: an MDAR check to the landowner and a local contribution (municipal, land trust, and/or landowner donation).

## Funding

APR funding is a cooperative arrangement that can include MDAR and NRCS (80%) and a local contribution (20%) from a land trust, municipality, another funding partner, and/or a landowner donation with an opportunity for a tax incentive. If any of the following municipal conditions exist, MDAR will reduce the local contribution accordingly: an Agricultural Commission (-5%), a Right-to-Farm bylaw (-5%), and/or a system to track building permits for APRs (-5%).

### Example

80 ACRES

FMV .....	<b>\$1,200,000</b>
FMALV .....	<b>- \$200,000</b>
<b>APR VALUE .....</b>	<b>\$1,000,000</b>

STATE & FEDERAL FUNDS .....	<b>+ \$800,000</b>
MUNICIPAL CONTRIBUTION .....	<b>+ \$100,000</b>
LAND TRUST CONTRIBUTION .....	<b>+ \$50,000</b>
SURVEY DEDUCTION* .....	<b>- \$7,000</b>
<b>VALUE OF CHECKS TO LANDOWNER** .....</b>	<b>\$943,000</b>
<b>LANDOWNER DONATION VALUE*** .....</b>	<b>\$50,000</b>

\* A survey cost-share agreement states that 50 percent of the survey cost will be deducted from the check at the end so that the landowner doesn't have to pay the cost up front.

\*\* State and federal and/or other matching funds.

\*\*\* A portion of the landowner donation may be recouped through tax incentives after completion of an APR that qualifies. The state's Conservation Land Tax Credit must be decided on early in the process and applied for. A federal tax deduction may be applied for after the APR is completed. Not all APRs include landowner donations. Please review financials with your tax/financial professional.

## APPLICATION

# THE APPLICATION

Applications may be filed year-round, but to be considered for the next budget cycle they must be submitted before the due date set by MDAR to meet budget cycle and application review process deadlines.

To get started call the APR program office to be assigned an APR field representative to talk about your goals. The application can begin any time of the year but you are highly encouraged to start as early as possible. After an initial phone call, an MDAR field representative will meet you at your property. If your local land trust is available as a partner, they can help you, too.

Understanding the soils of your property is an important part of planning your APR. You can make a

soils map of your farm using Web Soil Survey [www.websoilsurvey.sc.egov.usda.gov](http://www.websoilsurvey.sc.egov.usda.gov)/ or make an appointment with your local USDA-NRCS office or contact MDAR to review maps of your property to obtain a soils map (a soils packet) and map of your property from NRCS.

It's important to provide a map of the entire farm property: the land and building structures. Outline non-agricultural property and buildings that would be excluded; for example, future building lots for family members. If you are uncertain about possible exclusions, please ask NRCS or MDAR to provide a map of the entire farm; you can discuss the exclusion scenarios with your APR field representative during the site visit.

### Start Early!

MDAR accepts applications year-round. Start the process by speaking with an APR field representative as soon as possible, long before the application deadline.

The online application is here: [www.mass.gov/apr](http://www.mass.gov/apr).





## FILE YOUR APPLICATION

Complete and sign your APR application. (All owners of record must sign.) Mail it by certified mail along with a soils map to the address on the application. To be considered in the upcoming grant cycle, your application must be received before the application deadline provided by MDAR.

## Application Attachments

## REQUIRED DOCUMENTS

- Most recent deed of property ownership
- Contact information for all owners or members of a trust or corporation (if applicable)
- Documentation proving signatory authority (if a trust or corporation)
- Maps
  - *Copy of any existing boundary survey (if available)*
  - *Assessor's map showing tax parcel boundaries*
  - *Aerial photo map showing property boundary and excluded areas*
  - *A USDA NRCS soils map showing breakdown of soil types, acreage with soil capability, class I through VIII and prime farmland, soils of state or local significance, and unique soils*
- List of any and all liens, encumbrances and easements on the property (if any)
- Current lease or other rental agreement on farmland being considered for APR (if any)
- A description of all commercial agricultural activity: type of crop, acreage for each crop, type and quantity of livestock, and acreage of pasture
- A written statement of short- and long-term plans for keeping the land in active agricultural use

## HELPFUL BUT NOT REQUIRED

- USDA-NRCS conservation plan
- Forest management plan
- Succession plan for the property

## NOTE

If a municipality provides funding or other assistance, MDAR and the municipality may disclose applicant information to each other.

SOURCE: [www.mass.gov/apr](http://www.mass.gov/apr)

## APPLICATION

# PROPERTY VISIT

After MDAR receives your application, an APR field representative will call to make an appointment and meet you at the property to discuss the APR program, answer your questions, ask you questions about the farmland and farming operations, and walk the property to look at the fields. If you have the following documents, share them with the field representative during the visit because they may help your application.

- USDA-NRCS Conservation Plan (NRCS)
- Forest Management Plan (NRCS)
- Succession Plan for the property (Land for Good)
- Lease Agreements covering the land proposed for restriction (Land for Good)

The field representative will review with you the map and any property and buildings that would be excluded; for

example, future potential building lots. You may be advised to exclude portions of a woodland, wetland or open field that do not contain productive agricultural soils. MDAR can help find ways to work with land trusts or other partners to protect ineligible land through other funding programs or a donation that may provide compensation. If you are uncertain about the possibilities, discuss exclusion scenarios during your visit with your APR field representative. You may also want to discuss this with family members prior to the visit. If a land trust is also a partner they may also attend the site visit.

MDAR aims to complete projects within two to three years after an offer is accepted. Delays may occur due to the approval processes, funding availability, documentation, title search, legal notices, surveys, and unforeseeable circumstances. If you have questions about the application process, please contact your APR field representative.

## Family Plans

Consider having all decision-makers at the table from the beginning to talk about the future of the land. Looking for ideas about how to talk with family? Here are two good resources and there are many more: [www.masswoods.org/legacy](http://www.masswoods.org/legacy) and [www.landforgood.org/resources/toolbox/toolbox-farm-families/](http://www.landforgood.org/resources/toolbox/toolbox-farm-families/).





## APPLICATION

# APPLICATION EVALUATION

After applications are received, they are evaluated by MDAR and ALPC for available funding. MDAR scores applications for eligibility and desirability based on these criteria:

- |  |  |  |
|--|--|--|
| <ul style="list-style-type: none"><li>▪ AGRICULTURAL PRODUCTION FOR AT LEAST LAST 2 YEARS</li><li>▪ COMMERCIAL OPERATION<ul style="list-style-type: none"><li>▪ <i>Products raised and sold: vegetables, fruit, hay, pasture, trees (Christmas, sugarbush, etc.)</i></li><li>▪ <i>Landowner/farmer participation in farm operation</i></li><li>▪ <i>Farm buildings</i></li></ul></li></ul> | <ul style="list-style-type: none"><li>▪ LAND USE<ul style="list-style-type: none"><li>▪ <i>Total number of acres</i></li><li>▪ <i>At least 5 acres of active agricultural land</i></li><li>▪ <i>Percent of acres of prime, state, and locally important soils</i></li><li>▪ <i>Percent of acres in open agricultural use</i></li></ul></li></ul> | <ul style="list-style-type: none"><li>▪ LOCATION NEAR OTHER ACTIVE COMMERCIAL FARMS</li><li>▪ MUNICIPAL RIGHT-TO-FARM BY LAW</li><li>▪ FMV and FMALV<ul style="list-style-type: none"><li>▪ <i>The FMV and FMALV of the farmland determined by the independent appraisal</i></li></ul></li></ul> |
|--|--|--|

MDAR may also consider these and other priorities:

- |   |  |   |
|---|--|---|
| <ul style="list-style-type: none"><li>▪ Degree of threat, from any cause, to the continuation of agriculture on the farmland</li><li>▪ Land features and soil classification for agricultural use</li></ul> | <ul style="list-style-type: none"><li>▪ Opportunities for individual and family farm ownership and employment through farm-related processing, storage, transportation, and marketing of farm products</li></ul> | <ul style="list-style-type: none"><li>▪ Preservation priority for the agricultural resource base of the Commonwealth of Massachusetts</li></ul> |
|---|--|---|

See complete text 330 CMR 22 [www.mass.gov/files/documents/2017/09/15/330cmr22.pdf](http://www.mass.gov/files/documents/2017/09/15/330cmr22.pdf)

After applications are scored, they are ranked in order of desirability and compete for available funding. MDAR sends its recommendations and evaluation sheets to the Agricultural Lands Preservation Committee (ALPC) for review before its meetings. The ALPC meets quarterly as needed and these public meetings are advertised through MDAR's email lists and website at [www.mass.gov/apr](http://www.mass.gov/apr). You will be notified of the date of the meeting in which your application will be discussed. You are welcome to attend, but are not required to.

The ALPC will issue a "vote of interest" or "vote of no interest" or take other action with an explanation of its reasons. Following a vote of interest, MDAR will hire an independent appraiser to appraise the property.

You are notified in writing within 30 days of the ALPC vote. If you are dissatisfied with the result, you may request, within 30 days of the notification, to present supplementary information to the ALPC. The ALPC will hold a meeting within 120 days of your request to reconsider the application. ALPC information is available at [www.mass.gov/apr](http://www.mass.gov/apr).

## APPLICATION EVALUATION

SAMPLE MDAR / ALPC SCORESHEET FOR APPLICATION - *Subject to Change*

APR Parcel Scoresheet for Applications received 7/1/2018 - 6/30/2019

Date:

Prepared by:

Landowner's Name:		Total Acres:	
Property Address:		Eligible Acres:	
<b>Application Eligibility and Land Determination Requirements</b>			
<b>Thresholds - State</b>			Yes
Parcel fulfills at least one EEA Land Conservation Priority			<input type="checkbox"/>
Products raised on parcel are sold in the normal course of business (i.e. commercial operation)			<input type="checkbox"/>
Parcel in active agricultural production for at least previous two years			<input type="checkbox"/>
Parcel contains at least 5 acres of active agricultural land			<input type="checkbox"/>
<b>Thresholds - Federal</b>			
Parcel consists of a single contiguous land parcel			<input type="checkbox"/>
Parcel contains ≥ 33% open farmland and ≤ 66% woodland			<input type="checkbox"/>
Parcel contains ≥ 50% of a combination of prime/state important soils			<input type="checkbox"/>
If sod/nursery operation, parcel meets NRCS tolerance for soil loss			<input type="checkbox"/>
<b>Parcel Attributes</b>			
% in open ag use: ____%	Points	% prime/state soils: ____%	Points
33-50%	25	51-65%	25
51-75%	50	66-80%	50
76-100%	75	81-100%	75
Total		Total	
<b>Land Use</b>			
Land Use Majority (circle one)			Points
Vegetable/Small Fruit/Tobacco			75
Hay/Forage/RowCrops/Orchard/Vineyard			50
Pasture			25
Christmas Trees/Sugarbush			10
Total			
<b>Location</b>			
Active commercial APR land within 2.5 mile radius: ____ac		Points	
None		0	
1-250 acres		10	
251-500 acres		25	
over 500 acres		50	
Abutting (including across street)		+10	
Total			
<b>Ownership/Succession</b>			
Attribute		Points	
Land owner is also farm operator		50	
Farm operator makes majority of income farming		25	
Farm operator has long term (5+ yr) written lease w/owner		15	
Farm owner/operator owns other APR land		10	
Written succession plan prepared by professional		10	
Total			
<b>Size</b>			
Acres of land in open ag use: ____acres		Points	
5-25		10	
26-75		25	
76 +		50	
Total			
<b>Intensity/Productivity</b>			
Percent of open land intensively farmed: ____%		Points	
0-25%		0	
26-75%		25	
76-100%		50	
Total			
<b>Agricultural Priorities</b>			
Priority		Points	
Right to Farm Bylaw		10	
Total			
Single fam building permits - 5 yr average: ____permits		Points	
between 1 and 5		5	
6-15		15	
More than 15		25	
Total			
Additional Information		Points	
Parcel contains at least 75% prime soils (20 points)			
Staff Comments (1-40 points):			
Additional Comments/Considerations:			
Subtotal			
Total Points			



## APPLICATION

# TITLE & APPRAISAL

MDAR will assign a title attorney and an independent appraiser of the property. The title exam will be conducted by the attorney using publicly available registry documents. The title exam will determine if you hold a clear title and identify liens and encumbrances such as mortgages, tax liens, easements and rights of way. It will be important for you to retain an attorney to review this work.

MDAR will schedule a time for the appraiser to visit your farm. You and the APR field representative should be on site to confirm the APR boundary and answer any questions the appraiser may have. The appraisal process takes about 90 days. You will receive a copy of the appraisal. If a land trust partner is involved they may also attend the site visit.

The appraisal provides a professional opinion of the FMV of the land to be protected before placement of the APR and an opinion of the FMAV of the land protected after the APR is in place. The difference between the two appraisals is the APR value.

### REVIEW THE OFFER AND FUNDING

A local contribution can include municipal funds, land trust funds, other partner funds, and/or a landowner donation. The latter could qualify the landowner to apply for the state's conservation land tax credit (CLTC) and a federal tax incentive. If interested, check with the CLTC program for available funding and apply for a tax credit for the allowable portion of the landowner donation value. Information is available at [www.mass.gov/service-details/conservation-land-tax-credit-cltc](http://www.mass.gov/service-details/conservation-land-tax-credit-cltc). An appraisal will be required for the CLTC or for federal tax deduction purposes to submit with your tax return. The appraisal must be done not sooner than 60 days prior to closing but can be updated if older than that. MDAR must sign off on the IRS form 8283 when you file income tax forms.

### YOUR RESPONSIBILITIES AS LANDOWNER

- Clearing up any issue on the title, if the title exam indicates it is needed
- Approving a description of the physical features and boundaries of the APR property and any excluded land based upon a survey
- Paying 50 percent of the survey cost performed by independent surveyor hired by MDAR - the amount is deducted from the check at the end so families do not need to pay this cost up front
- Participating in the preparation, review, and signing of the baseline document report (BDR) that describes the present condition of the APR property

## The Offer from MDAR

The offer to purchase an APR is based on the difference between the FMV and FMAV determined by MDAR's independent appraisal. You will receive a copy of the appraisal and an offer letter to review with MDAR staff.

Within 30 days, you should review the offer with family members, heirs, accountant, attorney, land trust partner, etc. and ask any questions that arise before deciding whether or not to accept MDAR's offer. This often includes deciding on a local contribution: such as municipal funds, other locally-raised funds, or to donate some value. A landowner donation may be eligible for tax incentives such as the state conservation land tax credit (CLTC), as well as a federal tax incentive.

Planning for a local contribution from the municipality, a land trust or your donation should begin early in the process since it takes time to complete funding authorizations, fund raising, and/or a CLTC application. Final decisions and fine-tuning can then be made in the timeframe after the official offer. MDAR's offer is contingent upon ALPC's final vote to move forward.

## APPLICATION

# OFFER ACCEPTANCE

## Your Acceptance of the Offer

Within 30 days of receiving the offer, you must notify MDAR in writing to accept or decline the offer. Once you accept the offer, **MDAR submits the application materials to NRCS or other partner(s) for matching funds (up to 40 percent) to purchase the APR.** MDAR will submit the final paperwork to NRCS or other partner(s) for their review. Approval is subject to funding availability.

MDAR's APR program usually secures matching federal NRCS funds. Like MDAR, NRCS has a budget, and applications compete for available funding. Like MDAR and ALPC, NRCS has an evaluation and approval process and may also meet with the landowner. NRCS staff will visit the property to verify application information and confirm the property is eligible.

**Signing a purchase and sale agreement is required. This is a binding agreement to sell the APR. You should have an attorney review it before signing.**

Projects that pass both MDAR and NRCS eligibility for funding go to ALPC for a final vote. They are selected for funding in partnership with NRCS and go into a federal agreement. If funding is limited, those projects that rank the highest will receive funding. If your project is not funded, consult with your APR field representative about your funding alternatives.



## ALPC Final Vote

ALPC will meet to review projects accepted for MDAR funding, NRCS funding or other funding, and then issue a final vote to approve the acquisition of these APR projects.



## NRCS FUNDING

The APR program typically includes federal funding managed through MDAR. NRCS eligibility forms and application are provided by MDAR. NRCS, like MDAR, has a ranking and approval process, and will also meet with the landowner.

NRCS relies on the USDA Farm Service Agency (FSA) to determine landowner eligibility for NRCS funding. Landowners must go to the FSA office and fill out eligibility paperwork close to the time the APR application is submitted.

## Survey Work

Following the final vote at the ALPC meeting, the land to be protected by the APR needs to have boundaries surveyed. You are required to cover 50 percent of the cost which is deducted from your payment at the time of closing so you do not need to pay the cost up front.

MDAR will draft a survey-cost-share agreement for you to review and sign, and then will assign an independent surveyor. You will need to meet the surveyor and MDAR field representative on the property. If a land trust partner is involved, they may also help with this process. After the surveyor submits a draft survey to MDAR for review and approval, you and your attorney will receive a copy of the survey results. This is an opportunity to find out if any remaining issues need to be resolved. In some cases the surveyor presents the survey to the planning board for municipal approval, records the survey at the Registry of Deeds, and provides a metes-and-bounds property description to MDAR.

### THE SURVEY CHECKLIST

- ☐ Read and sign the survey-cost-share agreement.
- ☐ Meet with surveyor and APR field representative
- ☐ You, your attorney and MDAR review the survey draft for approval
- ☐ A land trust partner may also help with this process

### Review of Title and APR Agreement

You and your attorney will also receive the title exam and APR restriction document for your review and approval.



## Baseline Documentation Report (BDR)

No more than 90 days prior to closing, a baseline documentation report is established for each new APR to document the condition of the property at the time the APR was created. It includes maps, photos, and written documents describing the property's boundaries, resources, and building structures. You will have an opportunity to review and sign off on the BDR. No more than 14 days before closing, a final site visit may be necessary to confirm that the BDR is up to date and conditions have not changed since it was initially created.

The final copy of the BDR is given to you and a copy is put on file at MDAR. These reports are permanent records for future reference and are a baseline for making decisions in the interest of protecting the APR property in the future.

### SITE VISITS

APR stewardship staff will complete the BDR within 90 days of the APR closing.

A final site visit within 14 days of the closing confirms the property description.



## APPLICATION

# APPRAISAL UPDATE & NRCS APPROVAL

## Appraisal Update

If the appraisal is more than one year old, MDAR will pay for a supplemental appraisal report to update the APR value 1) based on the final configuration of the APR property after the survey, and 2) due to passage of time and possible change of land value.

## NRCS Approval

When NRCS funds are used, at least 90 days prior to closing MDAR will submit documents to NRCS for approval. Once they have been reviewed, MDAR will notify you of the results.



### LANDOWNER PACKET YOU WILL RECEIVE FROM MDAR

- *APR Agreement*
- *Exhibit A - Property Description*
- *Exhibit B – Property Map*
- *Survey*
- *Homestead Status*
- *Disclosure Statements*
- *Electronic Funds Transfer Form*
- *Tax Compliance Forms*
- *Mechanics Lien/Title Insurance Affidavit*
- *Vendor/Payment Form*
- *W-9 Form with Instructions*

## Preparation for Closing

Prior to closing you will receive a landowner packet of documents from MDAR for final review. Documents may vary depending on the federal NRCS process or the timeframe for the closing. After the legal documents are completed and the funding is secured, including those from a funding partner if applicable, MDAR will schedule a closing to arrange for payment, and recordings.

It is important for you to engage an attorney, preferably early in the process, to assist with the review of all the documents and help complete the closing.

Closings are often not done in person unless planned in advance.

## Receipt of Payment

After the closing, you will receive final payment for the APR on your land along with a copy of the APR agreement.

The APR agreement is a long-term obligation to protect farmland in Massachusetts. By entering into an APR agreement with MDAR you are ensuring that your land is permanently protected for agricultural purposes. An APR agreement is a legally binding and permanent interest in your property. MDAR's stewardship program is a resource to help ensure that terms are carried out.

### Baseline Documentation Report

A baseline document report (BDR) is prepared for every new APR to document the conditions of the property at the time it is protected. The BDR contains a detailed narrative, maps, and photographs to describe the property. MDAR stewardship staff and contractors use the BDR as a reference during monitoring visits to identify changes to the property (human-made or natural) and assure that the terms of the APR are upheld in perpetuity. If you need a copy of your BDR, please contact MDAR.

### APR Documents

Each APR agreement is unique. You should keep copies of correspondence and documents stored in a safe place and be able to refer to them at any time. These might include your APR agreement, letters, notices, specific paperwork for your APR land, and information regarding the APR program. MDAR keeps records on file if you need a copy and APR staff are available to answer questions.

If you are interested in adding or modifying property structures and/or land use activities, please read your APR agreement or contact APR stewardship staff beforehand to be familiar with your rights and responsibilities under the APR agreement. There are times when MDAR approval is needed before changes can be made; see agricultural and non-agricultural changes that require a certificate of approval or a special permit on pages 22-24.

### THE APR AGREEMENT

The APR is a binding agreement between you and the state of Massachusetts. It exists in perpetuity, runs with the land, binds all future owners of the APR land, and is recorded at the appropriate Registry of Deeds. Any inconsistency between the language of an APR agreement and the language of a regulation or policy (such as a new MDAR policy) will be resolved in favor of the APR agreement.

### Communication with MDAR

MDAR staff are available year-round for questions and answers. To help MDAR ensure consistency with the APR agreement, stewardship staff may contact you annually to provide you with an opportunity:

- To ask questions
- To request approvals or permits for changes and activities that impact your farmland
- To receive information about technical assistance and grants to support your farm viability and growth

MDAR stewardship staff, state-approved contractors, and/or NRCS staff may conduct reviews which include:

- An annual, routine, visual inspection of your farm with prior notice to you
- An on-site visit regarding an approval or a violation that requires a follow up
- A report with photos, maps or written documents to describe conditions of the property over time





## The Approval Process for Changes to Your APR Land

Over time, you may want to make changes on a property with an addition or an innovative project. Changes that require approval may include, but are not limited to, these activities and uses: buildings and structures, field alterations, educational use, energy, events, recreation, some agritourism activities, and vehicle storage/parking.

Changes to your APR property may require an approval from the APR Program. Contact APR Stewardship staff to discuss any changes requiring approval and send an MDAR application for the change to MDAR.

If the application is approved, and after the change is implemented, the stewardship staff will make a site visit to confirm that the outcome aligns with the terms of the approval and to document the project.

The following two pages describe the two approval processes: 1) a certificate of approval (COA) for agricultural changes and 2) a special permit for non-agricultural changes. Both approvals assure that any changes made will protect or improve the agricultural land.





## Certificate of Approval (COA)

Changes in **agricultural** structures or activities require a COA. Unless otherwise stated in your APR agreement changes:

- Cannot result in impervious surfaces greater than five acres or five percent of the APR land, whichever is less, and if the APR agreement has a more stringent requirement, it will prevail
- Must minimize, to the fullest extent possible, the loss of agricultural soils
- Must not interfere with agricultural operations and will preserve, maximize, and realize the agricultural potential of the APR land, and in addition, improve future agricultural operations

You should review your APR agreement to understand what does and does not require approval.

**Examples** of actions that require a COA include, but are not limited to, construction and activities such as:

- Construction: farm stand, housing for farm labor, alternative energy system, or any other agriculture-related structure
- Soil excavation for any reason

NOTE: Roof-mounted solar does not require approval.

## PROCEDURES FOR A COA

- ① You send a signed COA application describing the proposed use, activity, or structure.
- ② Within 90 days, MDAR will review the application, may inspect the APR property, and issue a decision.
- ③ If approved, MDAR will issue a COA which may require specific conditions.
- ④ If denied, MDAR will mail a written notice and offer the right to request (within 21 days) an appeal hearing before the ALPC. *See page 24 for more information.*

## YOUR RESPONSIBILITIES

- You must begin the approved activity within one year of receiving the COA.
- Construction or excavation must be completed within two years.
- You must follow the conditions set forth in the COA.
- You must notify MDAR in writing within 30 days of the completion of the COA activities.

## MDAR RESPONSIBILITIES

Upon completion of the COA activities, MDAR shall:

- Inspect the completed COA to determine compliance with the agreement.
- Confirm the inspection results in writing.

A COA application is available at [www.mass.gov/apr](http://www.mass.gov/apr) at "APR Program Details".



## Special Permit

A **non-agricultural** activity on an APR property requires a special permit. It may be issued for a five-year-maximum timeframe and may be renewable upon request after review by MDAR. The activity must align with the APR agreement, Massachusetts building codes, and APR program special permit guidelines in effect at the time of the application.

**Examples** of non-agricultural events or activities include but are not limited to: concerts, festivals, races, weddings, or the use of land to store or park trailers, boats, cars, or other non-agricultural equipment.

### MDAR MAY GRANT A SPECIAL PERMIT IF:

- The APR farmland is actively used for full-time commercial agriculture.
- The activity is minor, ancillary and subordinate to the agricultural use of the APR property.
- The use or activity does not conflict with the purpose of the APR.
- The request does not require new construction.

### YOUR RESPONSIBILITIES

- You must start the activity within one year of approval.
- You must follow the conditions set forth in the Special Permit.
- A special permit may be issued for any length of time up to a maximum of five years.
- You may request that MDAR renew the special permit.
- You must record the special permit at the Registry of Deeds and provide a copy to MDAR.

### MDAR RESPONSIBILITIES

- At any time during the initial or renewed term, MDAR may conduct a site visit to confirm compliance with the special permit.
- Confirm the inspection results in writing.

SOURCE: [www.mass.gov/files/documents/2016/08/py/apr-special-permit-policy.pdf](http://www.mass.gov/files/documents/2016/08/py/apr-special-permit-policy.pdf)

### PROCEDURES FOR A SPECIAL PERMIT

- ① Sign and send a request describing all proposed non-agricultural activities or uses.
- ② MDAR will review the request, may inspect the land, and issue a decision within 90 days.
- ③ If approved, MDAR will issue a special permit. The APR landowner, among other conditions, may be required to post a bond or other security.
- ④ If denied, MDAR will mail a written notice and offer the right to request (within 21 days) an appeal hearing before the ALPC.

Special Permit information is available at [www.mass.gov/apr](http://www.mass.gov/apr) at "APR Program Details."

## Appeal Hearings for Certificates of Approval and Special Permits

You may request a hearing before the ALPC regarding the denial of a COA or a special permit. MDAR will mail you a written denial notice and offer the right to request (within 21 days) an appeal hearing before the ALPC. After receiving your request, the ALPC will:

- ① Hold an adjudicatory hearing which means you may present evidence and facts.
- ② Provide a designated a hearing officer to preside over the hearing.
- ③ Assemble an official record of the hearing.
- ④ Render the final decision.

### Compliance

If it comes to MDAR's attention that the terms of the APR agreement are not being upheld, procedures for enforcement of the terms include but are not limited to the following:

- A site visit by MDAR staff.
  - If a violation of the APR terms is identified, a written notice is sent to you requesting voluntary restoration or reparation of the property. MDAR's goal is to communicate and work cooperatively so that you and MDAR will achieve mutually acceptable solutions. If a satisfactory agreement is reached between you and MDAR, an inspection will be made to confirm satisfactory implementation, and you will receive written correspondence to confirm resolution of the issue.
  - If MDAR and the landowner cannot reach a satisfactory resolution, MDAR may pursue resolution through legal means. Refer to your APR agreement to see prohibited uses, acts, and structures on your APR property. These may include, but not be limited to: residential dwellings, dumping of waste, earth mining/removal, storage of vehicles, and easements for utilities or roads.
- Also see previous pages 22-24 for examples of activities and uses that may require a COA or special permit.





## SELLING OR TRANSFERRING LAND

## Selling or Transferring APR Land

A landowner wishing to sell or transfer ownership of an APR property should notify APR staff immediately. **Not all, but most APR agreements include an Option to Purchase at Agricultural Value (OPAV) or Right of First Refusal (ROFR) and need an MDAR waiver before the sale.** A waiver states that MDAR waives its right to purchase the farmland which would then allow the sale.

It's important for you to review and understand the process for the sale or transfer of APR land. The process and timeframe are clearly described in the APR agreement and may be different for each APR agreement. It's important to review it with your attorney and realtor. Please note that the process for a decision on an approval for a sale or transfer could take up to 120 days.

## Notifying MDAR

If you intend to sell or transfer, and receive an offer to purchase, you must notify MDAR in writing as stated in your APR agreement. For example, a letter requesting a waiver for an OPAV must include copies of:

- The offer to purchase
- Purchase and sale agreement and amendments
- Any appraisal prepared for the proposed sale specifying fair market agricultural value (**FMAV**) (*See glossary.*)
- Any appraisal prepared for the sale in which the landowner acquired the APR property
- Other relevant documents relating to the proposed sale

Documentation will be reviewed to assure a property transfer is allowed. If the sale or transfer contains non-APR property, such as a house or land that is not enrolled in an APR, the landowner needs to apportion the value between the APR property and non-APR property. Written notice to MDAR is required and, unless otherwise agreed to, must be delivered by certified mail, return receipt requested; or hand delivered to MDAR's address listed at [mass.gov/agr](http://mass.gov/agr).

## OPAV PURPOSE

The OPAV's purpose is to make sure farms sell to farmers at an agricultural value. Because of the OPAV, which was pioneered by MDAR in 1992 as the first in the nation, hundreds of preserved farms have remained in the hands of Massachusetts farmers.

## CONSIDERING A SALE OR TRANSFER?

Notify MDAR immediately. Some APRs have an Option to Purchase at Agricultural Value (OPAV) or Right of First Refusal (ROFR) and may need an MDAR waiver before the sale which may take up to 120 days. This information is clearly described in your APR agreement. If you can't find it, notify MDAR to request a copy.

Of the approximately 900 APR agreements about 650 have an OPAV, 100 have an ROFR, and the rest are early APR agreements with no such provisions.

**Right of First Refusal (ROFR)** is the right to allow the Commonwealth the opportunity to purchase the property if it is offered for sale. If you apply for a waiver MDAR may, and usually does, waive its right to purchase.

**Option to Purchase at Agricultural Value (OPAV)** is a legal tool to help ensure the agricultural land remains available to farmers at agricultural value.

OPAV, ROFR, and Waiver guidelines are available at [www.mass.gov/apr](http://www.mass.gov/apr) at "APR Program Details".

# SELLING OR TRANSFERRING LAND

## FOR LANDOWNERS

### Selling or Transferring APR Land

Not sure where to start or what to do?  
Here are some quick suggestions:

- Review your APR agreement and contact MDAR as early as possible. Can't find your APR agreement? Call APR staff to request a copy.
- Some APRs contain a Right of First Refusal (**ROFR**) or an Option to Purchase at Agricultural Value (**OPAV**). Check your APR agreement to understand if either of these applies to your APR land.
- If there is an ROFR or an OPAV, specific procedures must be followed (samples include: obtaining an appraisal of the FMAV, preparing a farm plan, drafting an offer letter, etc.) Your APR agreement - in combination with APR guidelines,

policies and regulations - lists the requirements and the timeframe for the process. A decision could take up to 120 days after all documents are submitted to MDAR.

- MDAR has published regulations describing the process at [www.mass.gov/apr](http://www.mass.gov/apr).
- It is advisable to contact an attorney to help you through not only the land sale/transfer process but also the APR-specific process.
- APR staff are available to walk you through the process.

*Please note that policies and guidelines may change over time. APR Program updates are available at [www.mass.gov/APR](http://www.mass.gov/APR) or you may contact MDAR staff.*

## FOR REAL ESTATE PROFESSIONALS

### Questions and Considerations Before Listing a Property

- Is all or a portion of the property in agricultural use?
- Does it have an Agricultural Preservation Restriction (APR)? If so, the buyer must be informed and should read the APR agreement before deciding to purchase the property.
- Each APR property has an APR agreement that is a public record at the Registry of Deeds. The landowner and MDAR also have copies of the APR agreement.
- Some APRs contain a Right of First Refusal (ROFR) or an Option to Purchase at Agricultural Value

(OPAV). You and the landowner must check the APR agreement to understand if either of these applies to the APR land.

- If there is an ROFR or an OPAV, specific procedures must be followed (examples include: obtaining an appraisal of the FMAV, preparing a farm plan, drafting an offer letter, etc.).
- The landowner's APR agreement - in combination with APR guidelines, policies and regulations - lists requirements and the timeframe for the process. Information is available at [www.mass.gov/apr](http://www.mass.gov/apr).

- It could take up to 120 days after all documents are submitted to MDAR before a decision is made.
- Does the listing make it clear that the land is subject to an APR?
- Does the P&S limit the price to Agricultural Value and list the price for any non-APR land separately?
- Does the APR agreement prohibit sub-division?
- The buyer may be required to submit a farming resume, farm business plan and a financial plan.

#### CONTACT INFORMATION:

Massachusetts Department of Agricultural Resources, APR Program, [www.mass.gov/apr](http://www.mass.gov/apr), (617) 626-1700.

# SELLING OR TRANSFERRING LAND

## Guideline and Policy Updates

MDAR and the Executive Office of Energy and Environmental Affairs (EEA) have established guidelines, policies, and procedures in addition to APR documents, that are periodically updated and provide further guidance for APR landowners. Any inconsistency between the language of an APR agreement, policy or regulation will be resolved in favor of the APR agreement. All APR regulations and MDAR policy documents are posted on MDAR's website and MDAR will provide copies to a landowner upon request. The ALPC may advise and make a recommendation to MDAR for policy development or changes, and must approve any changes. ALPC meetings are held quarterly as needed, are open to the public, and are a forum for the public to comment on proposed changes to policy.

The complete regulations and ALPC information are available at [www.mass.gov/apr](http://www.mass.gov/apr) and may be consulted for details. If you would like a printed copy of the regulations, please contact the MDAR APR office at 617-626-1700, [www.mass.gov/apr](http://www.mass.gov/apr).

## APR Release

An APR is a restriction in perpetuity and may only be released, in whole or in part, in accordance with MDAR policies and Massachusetts Laws. The release is a difficult and rare process. For information see APR regulations at [www.mass.gov/apr](http://www.mass.gov/apr).





**Adjudicatory Hearing:**

A hearing where parties may present evidence on issues of fact and argument on issues of law prior to the ALPC issuing a written final decision.

**APR Agreement:** The APR restriction document.

**Agricultural Conservation Easement Program (ACEP):**

A voluntary federal program to help farmers preserve their agricultural land.

**Agricultural Land Easements (ALE):**

A voluntary federal program under the ACEP program offering financial assistance to eligible applicants for the purchase of agricultural land easements to help protect land devoted to food production.

**Agricultural Lands Preservation Committee (ALPC):**

A committee in the Department of Agricultural Resources whose membership, powers, duties, and statutory grant of authority are set by Mass General Law. ALPC oversees APR acquisitions and appeals: e.g. certificates of approval, special permits, Right of First Refusal, Option to Purchase at Agricultural Value.

**Agricultural Preservation**

**Restriction (APR):** A perpetual restriction - to protect land or water areas for their agricultural, farming, or forest use - that prohibits or limits certain property development rights and uses that are detrimental to agriculture.

**Agriculture:** The uses of land enumerated in Mass General Law c. 61A, §§ 1 and 2: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIX/Chapter61A>.

**Applicant:** The record owner(s) of land who submits an application for an APR project.

**Application:** A written request submitted by the landowner seeking an APR or a departmental approval.

**APR Parcel:** The land and improvements encumbered by an APR.

**APR Value:** The difference between the fair market value (FMV) and the fair market agricultural land value (FMALV) as determined by the appraisal obtained by the MDAR pursuant to Mass General Law.

**Baseline Documentation**

**Report (BDR):** Document of the conditions of the APR property at the time it is protected. The BDR contains a detailed narrative, maps, and photographs to describe the property.

**Certificate of Approval (COA):**

A certificate from MDAR, in recordable form, that allows a structure, improvement, activity, or use for agricultural purposes on an APR parcel.

**Commissioner:** The commissioner of the Massachusetts Department of Agricultural Resources.

**Conservation Land Tax**

**Credit (CLTC):** A state tax credit available for the donation of conservation land. [www.mass.gov/service-details/commonwealth-conservation-land-tax-credit-cltc](http://www.mass.gov/service-details/commonwealth-conservation-land-tax-credit-cltc).

**Departmental Approval:** Approval by MDAR, with or without conditions, that allows a structure, improvement, excavation, use or activity on an APR parcel.

**Energy and Environmental**

**Affairs (EEA):** An executive office of the Commonwealth that oversees the stewardship of open space, the protection of environmental resources, and advancement of clean energy.

**Fair Market Agricultural**

**Business Value (FMABV):** Value of an agricultural business including agricultural buildings, infrastructure, goodwill, agricultural business potential, activities and circumstances at the time of sale of the APR parcel. FMABV is relevant only upon the sale of the APR parcel and not applicable at the time of original purchase of the APR.

**Fair Market Agricultural Land**

**Value (FMALV):** Value based upon the highest and best use of the land for agricultural purposes. The FMALV may rise and fall commensurate with market conditions, inflation, or other valuation factors. It is established by an independent appraisal arranged by MDAR.

**Fair Market Agricultural Value**

**(FMAV):** The combined total of the following: fair market agricultural land value, fair market agricultural business value, and fair market agricultural dwelling value.

**Fair Market Agricultural Dwelling**

**Value (FMADV):** Appraised replacement value of a dwelling(s) on the restricted land.

**Fair Market Value (FMV):**

The most probable price that a parcel would bring in a competitive and open market under all conditions requisite for a fair sale, assuming the price is not affected by undue stimulus. It is established by an independent appraisal arranged by MDAR.

**Farm Stand:**

An agricultural structure for the sale of agricultural products not inconsistent with MGL c.40A, § 3.

**Final Vote:**

A vote of the ALPC approving or rejecting a project that had previously received a vote of interest.

**Housing for Farm Labor:**

A structure, whether new structure or conversion of an existing structure, for use only by seasonal agricultural employees of the owner. Depending on the agricultural use of the land, the season may be year-round, for example a dairy operation has a year-round season.

**Impervious Surface:**

A material that does not allow water to percolate into the soil; this includes, but is not limited to, building structures and rooftops, and paved areas or roads with concrete and asphalt surfaces.

**Municipality:** The city or town in which a project is located.

**NRCS:** U.S. Department of Agriculture, Natural Resources Conservation Service, which provides federal financial and technical assistance to farmers.

**Option to Purchase at Agricultural**

**Value (OPAV):** A legal tool to ensure the agricultural land remains available for agricultural use in the future at a price a farmer can afford.

**Owner:** APR parcel record title owner(s).

**Partner Agency or Organization:**

A partner with MDAR in purchasing, holding or enforcing the terms of the APR.

**Program:** MDAR's Agricultural Preservation Restriction program.

**Project:** An area of land for which an APR application has been submitted.

**Right of First Refusal (ROFR):**

The document with provides the Commonwealth the right to purchase the APR property if it's offered for sale.

**Special Permit:** An MDAR approval in the form of a recordable certificate that permits a temporary non-agricultural activity or use on an APR Parcel, subject to all requirements and conditions in the applicable APR agreement, to all provisions of M.G.L. c. 20, § 23, and to any conditions contained in the special permit.

**Structure:** Materials assembled at a location to provide support or shelter, whether or not it requires a footing or foundation.

**Violations:** Prohibited uses, acts, and structures on APR farmland that are inconsistent with the APR agreement.

**Vote of Interest:** A vote by the ALPC indicating an interest in purchasing an APR subject to available funding.

**Waiver:** An MDAR issued document that waives MDARs right to purchase or assign the right to purchase an APR parcel.

## APPENDIX

# LAND PROTECTION RESOURCES

### FEDERAL ASSISTANCE

The USDA Natural Resources Conservation Service provides financial and technical assistance to farms through the following programs and services.

[www.ma.nrcs.usda.gov](http://www.ma.nrcs.usda.gov)

- The Agricultural Management Assistance (AMA) program helps agricultural producers use conservation to manage risk and solve natural resource issues through natural resources conservation.
- Conservation Planning offers technical assistance to conserve and sustain agricultural production.
- The Conservation Stewardship Program (CSP) helps agricultural producers maintain and improve their existing conservation systems and adopt additional conservation activities to address priorities.
- The Environmental Quality Incentives Program (EQIP) provides financial and technical assistance to agricultural producers in order to address natural resource concerns and deliver environmental benefits such as improved water and air quality, conserved ground and surface water, reduced soil erosion and sedimentation or improved or created wildlife habitat.
- The Web Soil Survey provides soil data and maps online.

### ESTATE PLANNING

If you are interested in estate, legacy or succession planning there are many good resources available.

Two examples are Mass Woods [www.masswoods.org](http://www.masswoods.org) and Land for Good [www.landforgood.org](http://www.landforgood.org).

### LAND TRUSTS

Land trusts offer a broad range of support for landowners wishing to conserve their land and preserve their farms. Many local land trusts are available for help. A long list is available at [www.massland.org/land-trusts/list](http://www.massland.org/land-trusts/list) and [www.landtrustalliance.org](http://www.landtrustalliance.org).

A few include:

- American Farmland Trust [www.Farmland.org](http://www.Farmland.org)
- Berkshire Natural Resources Council [www.bnrc.org](http://www.bnrc.org)
- Buzzards Bay [www.savebuzzardsbay.org](http://www.savebuzzardsbay.org)
- East Quabbin Land Trust [www.eqlt.org](http://www.eqlt.org)
- Essex County Greenbelt [www.ecga.org](http://www.ecga.org)
- Franklin Land Trust [www.franklinlandtrust.org](http://www.franklinlandtrust.org)
- Kestrel Land Trust [www.kestreltrust.org](http://www.kestreltrust.org)
- Mount Grace Land Trust [www.mountgrace.org](http://www.mountgrace.org)
- Sheffield Land Trust [www.sheffieldland.org](http://www.sheffieldland.org)
- Westport Land Trust [www.westportlandtrust.org](http://www.westportlandtrust.org)

### MDAR TECHNICAL ASSISTANCE AND GRANTS/FUNDING

In addition to the APR program, MDAR also provides other agricultural assistance. Many programs are available for APR landowners and non-APR landowners at [www.mass.gov/guides/agricultural-grants-and-financial-assistance-programs](http://www.mass.gov/guides/agricultural-grants-and-financial-assistance-programs). MDAR also offers assistance in developing a business plan through MDAR's Growing Your Farm - A Business Planning Course. Information is available at: [www.mass.gov/service-details/agricultural-business-training-program-abtp](http://www.mass.gov/service-details/agricultural-business-training-program-abtp)

Other resources are also available. Please ask APR staff for suggestions.



